



21 MAY 2008

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

VENABLE LLP
P.O. BOX 34385
WASHINGTON DC 20045-9998

In re Application of
TARACHA et al.
Application No.: 10/573,033
PCT No.: PCT/US04/30831
Int. Filing Date: 21 September 2004
Priority Date: 22 September 2003
Attorney Docket No.: 41860-229250
For: ANTIGENS FOR AN EAST COAST
FEVER VACCINE

:
:
:
: DECISION ON PETITION
:
: UNDER 37 CFR 1.497(d)
:
:

This is a decision on applicants' "Reply to Decision on Petition under 37 CFR 1.497(d)" to correct Inventorship, filed on 31 August 2007 in the United States Patent and Trademark Office (USPTO). The petition under 37 CFR 1.497(d) seeks to add Elizabeth Jane Glew, Simon Graham, Nyerhovwo J. Tonukari, Yoshikazu Honda, Roger Pelle, Duncan Mwangi and Matasuke Yamage as inventors in the above referenced application. Applicant's request for a three month extension of time is granted.

BACKGROUND

On 21 December 2006, a Notification of Missing Requirements was mailed to applicant.

On 22 February 2007, applicant filed a Response to the Notification of Missing Requirements, along with Combined Declaration and Power of Attorney executed by applicant/inventors identified in the published International application and identifying Elizabeth Jane Glew, Simon Graham, Nyerhovwo J. Tonukari, Yoshikazu Honda, Roger Pelle, Duncan Mwangi and Matasuke Yamage as co-inventors. Applicant also filed a petition to correct inventorship, treated under 37 CFR 1.497(d) requesting the addition of applicant/inventors Elizabeth Jane Glew, Simon Graham, Nyerhovwo J. Tonukari, Yoshikazu Honda, Roger Pelle, Duncan Mwangi and Matasuke Yamage.

On 18 June 2007, a decision dismissing the petition to correct inventorship was mailed to applicant.

On 31 August 2007, applicant filed the instant renewed petition under 37 CFR 1.497(d).

DISCUSSION

37 CFR 1.497 (d)

As previously stated, where the oath or declaration filed pursuant to 35 U.S.C. 371(c)(4) and 37 CFR 1.497(d) names an inventive entity different from the inventive entity set forth in the

international application, the oath or declaration must be accompanied by: (1) a statement from each person being added as an inventor that any error in inventorship occurred without deceptive intention on his or her part; (2) the fee set forth in § 1.17(i); and (3) if an assignment has been executed by any of the original named inventors, the written consent of the assignee(s) (See 37 CFR 3.73(b)).

Applicant previously satisfied Item (2) above.

With regard to Item (1), applicant has provided newly executed statements of the inventors and correctly identifies inventor Nyerhovwo J. Tonukari.

With respect to Item (3), the written consent of the assignee Institute for Genomic Research was previously accepted. Applicant also provided the written consent of the assignee International Livestock Research. However, the consent misidentifies two of the inventors: Jane Glew rather than Elizabeth Jane Glew and inventor Nyerhovwo J. Onukari, rather than Nyerhovwo J. Tonukari, as listed in the inventors' statement. Thus, Item (3) is not yet satisfied.

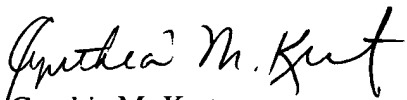
Accordingly, applicant has met not all of the requirements of 37 CFR 1.497(d) to add Elizabeth Jane Glew, Simon Graham, Nyerhovwo J. Tonukari, Yoshikazu Honda, Roger Pelle, Duncan Mwangi and Matasuke Yamage as co-inventors in the above-identified international application.

CONCLUSION

For the reasons discussed above, the submission under 37 CFR 1.497(d) to add Elizabeth Jane Glew, Simon Graham, Nyerhovwo J. Tonukari, Yoshikazu Honda, Roger Pelle, Duncan Mwangi and Matasuke Yamage as inventors is **DISMISSED WITHOUT PREJUDICE**.

This application will be held in the PCT Legal Office, Office of PCT Legal Administration to await applicant's further reply, that is, a newly executed written consent of the assignee International Livestock Research which identifies all of the inventors to be added to the application in compliance with 37 CFR 1.497(d).

Any further correspondence with respect to this matter should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.



Cynthia M. Kratz
Attorney Advisor
PCT Legal Office

Telephone: (571) 272-3286
Facsimile: (571) 273-0459